IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7138 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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HARIBHAI GOVINDBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 7138 of 2000

MR YOGESH S LAKHANI for Petitioner No. 1

MR VM PANCHLI, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

MR NIGAM R SHUKLA for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 05/04/2002

ORAL JUDGEMENT

#. Rule. Mr.V.M.Pancholi, learned APP waive service of rule on behalf of the State Government. Mr.Dharmesh Nanavati for Mr.N. R.Shukla, appears and waive service of

rule on behalf of the respondent No.2 - original complainant.

#. By consent of the learned advocates for the parties this matter is heard and disposed of finally.

#. It is the contention of the present petitioner that he is original accused in CR No.I-593/2000 recorded before Rajkot Taluka Police Station for the offences punishable under Sections 420, 406, 467, 468, 469, 471 and 114 of the I.P.C. against the present petitioner and other accused persons. It is also contended that another FIR has also been lodged before the said Police Station by the very complainant - informant and that offence has been registered on CR No.I-770/2000 on 30.10.2000 before the said Police Station.

#. It is the contention of the present petitioner that both the FIRs contain the same set of facts and allegations, meaning thereby that the facts stated in the CR No.I-593/2000 have been totally repeated in CR No.I-770/2000. It is therefore his contention that when the FIR has been registered as CR No.I-593/2000 and when the said fact has been thoroughly investigated by the Investigating Officer and when the charge-sheet has also been filed in respect of that offence it would not be legal, proper and appropriate to have further investigation in CR No.I-770/2000. It is therefore prayed that the FIR being CR No.I-770/2000 be quashed and set aside in exercise of the power under Section 482 of the Criminal Procedure Code, 1973.

#. The learned advocate for the contesting respondent being the original complainant states that four more accused persons have been named in the 2nd FIR being CR No.I-770/2000. Now, however, at all during the investigation or at the conclusion of the investigation in CR No.I-593/2000 if the Investigating Officer feels that those four persons have also been involved in the offence then it would be open to him to have appropriate steps against those four persons but that does not mean that there should be investigation de novo into the same set of facts and allegations in CR No.I-770/2000.

#. The learned APP Mr.Pancholi has also gone through the papers and has submitted that the allegations and averments made in the first FIR are also the allegations and averments made in the second FIR. In that view of the matter, it would not be just, legal and proper to permit the further investigation in the second offence i.e. in FIR No.I-770/2000. This is therefore a good

ground for quashing second FIR so that further investigation cannot go into it.

#. For the foregoing reasons, this application is allowed. The FIR being CR No.I-770/2000 registered before the Rajkot Taluka Police Station is ordered to be quashed and set aside. Rule is made absolute. D.S. is permitted.

(D. P. BUCH, J.)

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